



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,827	08/04/2003	James Buch	THREE-134A	5268

34284 7590 03/29/2006

ROBERT D. FISH  
RUTAN & TUCKER LLP  
611 ANTON BLVD 14TH FLOOR  
COSTA MESA, CA 92626-1931

EXAMINER

ALLEN, WILLIAM J

ART UNIT PAPER NUMBER

3625

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/633,827

Applicant(s)

BUCH ET AL.

Examiner

William J. Allen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/4/2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/20/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because the shading of Figures 15-21 make it difficult to realize the subject matter being shown in the figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 20 and 43 are objected to because of the following informalities: Claims 20 and 43 recite the limitation "an Internet" and should recite "the Internet". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-2, 4, 19-25, 27, 29, 42, 43 and 44 are rejected under 35**

**U.S.C. 102(b) as being anticipated by Masters (US 2002/0006602).**

**Regarding claim 1, Masters teaches:**

*providing a room setting user interface comprising a plurality of available room settings (see at least: 0027, Fig. 2);*

*obtaining a selected room setting from the user via the room setting user interface (see at least: 0027, Fig. 2);*

*providing a product user interface comprising a plurality of available products (see at least: 0007-0009);*

*obtaining a selected product from the user via the product user interface (see at least: 0007-0009);*

*providing a color user interface comprising a plurality of available colors for the selected product (see at least: 0002, 0006, 0028, Fig. 2);*

*obtaining a selected color from the user via the color user interface (see at least: Fig. 4); and*

*displaying a visualization of the selected product in the selected color in the selected room setting (see at least: Fig. 4, element 113; Fig. 1, element 196).*

**Regarding claim 2,** Masters teaches *wherein the color user interface comprises a color wheel displaying the selected color and a plurality of colors related to the selected color (see at least: 0006, 0028, Fig. 2).* The Examiner notes that the “color palette” of Masters constitutes a *color wheel*.

**Regarding claim 4,** Masters teaches *wherein the color user interface highlights colors that have matching products (see at least: 0006, 0028, Fig. 2).* The Examiner notes that by displaying the colors in the color palette/selectable patterns that have available products the system is highlighting those colors.

**Regarding claim 19,** Masters teaches *wherein the computer-implemented method is implemented on a server that can be remotely accessed by the user over a network (see at least: 0024).*

Art Unit: 3625

**Regarding claim 20**, Masters teaches *wherein the network is an Internet* (see at least: Fig. 7, element 16).

**Regarding claim 21**, Masters teaches *the method further comprising ordering the selected product in the selected color* (see at least: 0041).

**Regarding claims 22, 27, 29, 42, 43 and 44**, the limitations set forth in claims 22, 27, 29, 42, 43, and 44 closely parallel the limitations of claims 1 –2, and 19-21 respectively. Claims 22, 27, 29, and 42-44 are thereby rejected under the same rationale.

**Regarding claim 23**, Masters teaches *wherein the home décor product is a window covering* (see at least: 0001, 0002, 0031).

**Regarding claim 24**, Masters teaches *wherein the home décor product is an area rug* (see at least: 0001, 0002, 0028). The Examiner notes “floor coverings” constitutes an area rug.

**Regarding claim 25**, Masters teaches *wherein the home décor product is a carpet* (see at least: 0001, 0002, 0028). The Examiner notes “floor coverings” constitutes carpet.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 3 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view Blanchard et al. (US 2002/0089513, herein referred to as Blanchard).**

**Regarding claims 3 and 28,** Masters teaches all of the above and further teaches a color user interface (see at least: Fig. 2). Masters, however, does not teach *the color user interface comprising color variation strips based on colors displayed in the color wheel*. Blanchard teaches a *color user interface comprising color variation strips based on colors displayed in the color wheel* (see at least: Fig. 1, 0083). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *the color user interface comprising color variation strips based on colors displayed in the color wheel* as taught by Blanchard in order to provide a means for calculating harmonizing colors based on a reference color (see at least: Blanchard, abstract).

5. **Claims 6-13, 15-16, 31-38, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Gordon (US 2002/0099725).**

**Regarding claim 6,** Masters teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: abstract). Masters, however, does not expressly teach where the room setting being manipulated is *a photograph of the user's room setting*. Gordon teaches where the room settings being manipulated are *photographs of the user's room setting* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included where the room settings being manipulated are *photographs of the user's room setting* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

**Regarding claim 7,** Masters further teaches *wherein the user indicates a window location in the photographs using a pointing device* (see at least: 0027).

**Regarding claim 8,** Masters further teaches *wherein the user indicates a plurality of window locations in the photograph using a pointing device* (see at least: 0027).

**Regarding claim 9,** Masters further teaches *wherein the displaying the visualization of the selected product in the selected color in the selected room setting*



*comprises displaying different selected products in different window locations* (see at least: 0027-0028). The Examiner notes that the each treatment chosen (window, door, wall, etc.) are displayed in the locations chosen for each.

**Regarding claim 10,** Masters further teaches wherein the displaying the visualization of the selected product in the selected color in the selected room setting comprises displaying different colors of the selected products in different window locations (see at least: 0027-0028). The Examiner notes that the products are displayed in the colors selected by the user in their respective chosen locations.

**Regarding claim 11,** Masters teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: abstract). Masters, however, does not expressly teach *wherein the photograph of the user's room setting is a digital photograph*. Gordon teaches *wherein the photograph of the user's room setting is a digital photograph* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the photograph of the user's room setting is a digital photograph* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

**Regarding claim 12,** Masters teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: abstract). Masters, however, does not expressly teach *wherein the photograph of the user's room setting is a digital photograph*. Gordon teaches *wherein the digital photograph is stored on a digital camera and accessed from the digital camera* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the digital photograph is stored on a digital camera and accessed from the digital camera* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

**Regarding claim 13,** Masters teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: abstract). Masters, however, does not expressly teach *wherein the digital photograph is stored on a disk accessible by the computer on which the method is implemented*. Gordon teaches *wherein the digital photograph is stored on a disk accessible by the computer on which the method is implemented* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the digital photograph is stored on a disk accessible by the computer on which the method is implemented* as taught by Gordon in order to allow a customer to easily view the selection that he or she

has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

**Regarding claims 15 and 16**, Masters teaches all of the above and further teaches a stand alone/local terminal for carrying out the above method (see at least: 0024). Masters, however, does not expressly show *wherein the method is implemented on a portable computer and wherein the portable computer is a laptop computer*. Gordon teaches *wherein the method is implemented on a portable computer and wherein the portable computer is a laptop computer* (see at least: Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the method is implemented on a portable computer and wherein the portable computer is a laptop computer* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a portable computer before purchasing the selection (see at least: Gordon, 0031).

**Regarding claim 31-38**, the limitations set forth in claims 31-38 closely parallel the limitations of claims 6-13. Claims 31-38 are thereby rejected under the same rationale.

**Regarding claim 40-41**, the limitations set forth in claims 40-41 closely parallel the limitations of claims 15-16. Claims 40-41 are thereby rejected under the same rationale.

**6. Claims 5, 17-18, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Lambertsen (US 2002/0024528).**

**Regarding claims 5 and 30**, Masters teaches all of the above and further teaches creating personalized room settings (see at least: Fig. 1-2). Masters, however, does not teach where a selected room setting *is a pre-stored glamour photograph*. Lambertsen teaches selecting pre-set images (i.e. *pre-stored glamour photograph*) for manipulation (see at least: 0015). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *pre-stored glamour photographs* as taught by Lambertsen in order to provide pre-set images that do not require features to be outlined by the user (see at least: Lambertsen, 0015).

**Regarding claims 17-18**, Masters teaches all of the above and further teaches selecting and placing objects in a room setting (see at least: Fig. 1-4). Masters, however, does not teach *wherein the selected product is translucent and wherein the level of transparency is adjustable by the user*. Lambertsen teaches *wherein the selected product is translucent and wherein the level of transparency is adjustable by*

Art Unit: 3625

*the user* (see at least: 0042). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the selected product is translucent and wherein the level of transparency is adjustable by the user* as taught by Lambertsen in order to provide an easy means for creating a digitally enhanced image from an uploaded photograph while allowing the user to adjust opacity/transparency to suit their viewing needs (see at last: Lambertsen, abstract, 0042).

**7. Claims 14 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Nardozzi et al. (US 6,636,837, herein referred to as Nardozzi).**

**Regarding claims 14 and 39,** Masters teaches all of the above and further teaches providing a terminal for use with the method of Masters (see at least: 0024). Masters, however, does not expressly teach *wherein a touch screen is used to obtain user input*. Nardozzi teaches *wherein a touch screen is used to obtain user input* (see at least: Fig. 1; col. 4, lines 63-66). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein a touch screen is used to obtain user input* as taught by Nardozzi in order to allow a user to enter information simply by touching the appropriate region of the display (see at least: col. 4, lines 63-66).

**8. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters.**

**Regarding claims 23-26,** Masters teaches *wherein the home décor product is a window covering, an area rug, and a carpet* but does not expressly show where *the home décor product is a throw pillow*. These differences, however, are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The method steps would be performed the in the same manner regardless of the type of home décor product, be it window coverings, carpet, area rugs, drapes, blinds, curtains, furniture, etc.. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include throw pillows as home décor products because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3625

- US 202/0010655 to Kjallstrom discloses an interactive, real-time, product display system
- PTO 892 Reference U discloses a web service for interior design and building planning

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Pond can be reached on (571) 272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William J. Allen  
Patent Examiner  
March 24, 2006